

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SUKUMAR SARKAR,

Plaintiff,

VS.

NORMAN PAIZ, 1776
TRANSPORTATION LLC and
WICHITA KENWORTH INC.

Defendants.

CIVIL ACTION

FILE NO.:

DEMAND FOR JURY TRIAL

NOTICE OF REMOVAL

Defendants Norman Paiz, 1776 Transportation, LLC, and WKI Operations, Inc.¹ (collectively referred to herein as "Defendants") file this Notice of Removal showing the Court as follows:

1.

Plaintiff filed a civil action in the State Court of Gwinnett County, Georgia, with Civil Action File No. 23-C-01532-S4, alleging injuries stemming from a motor vehicle accident that occurred on April 11, 2021² on I-85 Northbound in Buford, Georgia. Plaintiff's Complaint names Norman Paiz, 1776 Transportation, LLC, and

¹ Incorrectly identified in Plaintiff's Complaint as Wichita Kenworth, Inc.

² The Complaint incorrectly states that the date of accident occurred on April 28, 2022.

WKI Operations, Inc. as Defendants in this action. The entire state court file is attached hereto as Exhibit "A".

2.

At the time the Complaint was filed, Plaintiff was a citizen of the State of Georgia.

3.

At the time the Complaint was filed, Defendant 1776 Transportation, LLC, was a foreign limited liability company organized under the laws of the State of Oklahoma with its principal place of business located in Oklahoma. 1776 Transportation, LLC has one member, Caleb Pence, domiciled in Oklahoma. Therefore, Caleb Pence is a citizen of Oklahoma and for diversity purposes 1776 Transportation, LLC is also a citizen of Oklahoma.

4.

At the time the Complaint was filed, Defendant Norman Paiz was a citizen of the State of Kansas.

5.

At the time of the filing of the Complaint, WKI Operations, Inc. was a corporation incorporated under the laws of the State of Kansas with its principal

place of business located therein. Therefore, for diversity purposes Wichita Kenworth, Inc. is a citizen of the State of Kansas.

6.

In the Complaint, Plaintiff alleges that he incurred physical injuries, losses, and damages due to the subject motor vehicle accident. (Compl. ¶¶ 21, 26, 31, 35, 40, 44, 45-48). Plaintiff alleges, in part, that he incurred and will continue to incur medical expenses and pain and suffering. (*Id.*).

7.

Plaintiff is seeking to recover past medical expenses and an unknown amount of additional special and general damages, including past and future actual damages and past and future pain and suffering. (*Id.*).

8.

Although Plaintiff's complaint does not specify the amount of damages that he is seeking, Plaintiff's Complaint states he has incurred medical expenses totaling in excess of \$40,070.17, which does not include his alleged future medical treatment, alleged property damage, or alleged pain and suffering. (*Id.*).

9.

In cases such as these, Defendants believe it is facially apparent that Plaintiff will be seeking damages in excess of \$75,000 associated with his alleged injuries stemming from the subject accident.

10.

As of the time of the filing of this removal, the amount in controversy more likely than not exceeds the jurisdictional limit of \$75,000, exclusive of interest and costs. *See Roe v. Michelin North America, Inc.*, 613 F.3d 1058 (11th Cir. 2010).

11.

Based on Plaintiff's allegations in the Complaint, Plaintiff's alleged injuries, medical expenses and pain and suffering alleged to be related to the subject incident, and alleged lost wages, the total of the alleged special and general damages at issue in this matter exceeds the amount in controversy requirement for removal to this Court, and the jurisdictional prerequisite is therefore satisfied. There is diversity of the parties at the time of this removal, which satisfies the remaining requisite elements of jurisdiction and entitles Defendant to remove this action to the United States District Court for the Northern District of Georgia, Atlanta Division, pursuant to 28 U.S.C. §§ 1332 and 1446.

12.

The foregoing action is properly removable to this Court pursuant to 28 U.S.C. § 1441(a), 28 U.S.C. §§ 1446(a) and (b) and, in accordance with U.S.C. § 1332(a), there being a complete diversity of citizenship between Plaintiff and Defendants, and the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.

13.

Now, within thirty days after the receipt by Defendants of the document indicating that the amount in controversy has been met and thus making the case removable to this Court, notice is hereby given, in accordance with 28 U.S.C. § 1446 and pursuant to Rule 11 of the Federal Rules of Civil Procedure, of the removal of said action to this Court.

14.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

15.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the State Court of Gwinnett County, Georgia, as required by 28 U.S.C. § 1446.

WHEREFORE, Defendants pray that the above-captioned lawsuit be removed to the United States Court for the Northern District of Georgia, Atlanta Division.

Respectfully submitted, this 7th day of April, 2023.

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**BAKER, DONELSON, BEARMAN
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*Attorneys for Defendants Norman
Paiz, 1776 Transportation, LLC, and
WKI Operations, Inc.*

CERTIFICATION PURSUANT TO LOCAL RULE 5.1B

This is to certify that this Pleading was created in Times New Roman 14-point font with a 1.5" top margin in accordance with Local Rule 5.1B.

This 7th day of April, 2023.

BAKER, DONELSON, BEARMAN
CALDWELL & BERKOWITZ, PC

/s/ Brent W. Cole

BRENT W. COLE

Georgia State Bar No. 294999

*Attorneys for Defendants Norman
Paiz, 1776 Transportation, LLC, and
WKI Operations, Inc.*

CERTIFICATE OF SERVICE

This is to certify that I served a copy of the foregoing **NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF filing system, which will automatically send email notification of such filing to the following attorney of record, as well as by U.S. Mail, to:

Matthew C. Broun
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1447 Peachtree Street, NE
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This 7th day of April, 2023.

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